

[REDACTED]

Employer Identification Number: [REDACTED]  
Key District: [REDACTED]

Dear Applicant:

We have considered your application for recognition of exemption from federal income tax as an organization described in section 501(c)(5) of the Internal Revenue Code. We have determined that you do not qualify for exemption under that section of the Code. Our reasons for this conclusion and the facts upon which it is based are explained below.

The information submitted indicates that you were incorporated on [REDACTED] under the laws of the State of [REDACTED]. Your Articles of Incorporation state that you are organized to operate, on a non-profit basis, that certain standardbred training center located adjacent to (and to the north of) [REDACTED]. Although you state in your application that authority for certain actions is contained in your bylaws, in your letter dated [REDACTED], you state that you do not have adopted bylaws.

In your application, you state that the training center consists of approximately [REDACTED] stalls, a one-mile oval [REDACTED] a one-half mile oval training track, roadways, groom quarters, and related improvements. You state that you will maintain the training center, the tracks, the stalls, the grounds in general, and provide premises liability insurance and premises security. You state that various horses will be stabled at the training center, where they will be cared for, exercised, and trained by your members. With regard to membership, you state that any horseman wishing to stable his or her horses at the training center will be allowed to do so on a first-come, first-served basis, and that all horsemen will be assessed on a per stable basis, with all stables sharing expenses equally. In your proposed budgets, you state that your primary revenue will be from [REDACTED], and your primary expenses will be your [REDACTED] of the property, [REDACTED] and [REDACTED] and [REDACTED].

[REDACTED]

In your letter dated [REDACTED] you state that you were formed in order to improve the betterment of the conditions of the horsemen at [REDACTED] by radically changing the relationship between the racetrack management and the horsemen; you allow your members to conduct their business more freely, give them autonomy over the control of their facility, free them from racetrack and other regulations, bettering them as a group and allowing them to develop a higher degree of efficiency in their occupation. You state that racetracks generally impose restrictions on the horsemen which are arbitrary and unreasonable, and that parimutuel laws also require racetracks to impose yet more rules on horsemen under their jurisdiction. You also state that your training center is not available for use by those who do not board their horses there, but that your membership is open to all who wish to board their horses at the training center.

Section 501(c)(5) of the Code provides for the exemption from federal income tax of labor, agricultural, or horticultural organizations.

Section 1.501(c)(5)-1(a) of the Income Tax Regulations provides that exempt agricultural organizations are those which have no net earnings inuring to the benefit of any member, and have as their objects the betterment of the conditions of those engaged in such pursuits, the improvement of the grade of their products, and the development of a higher degree of efficiency in their respective occupations.

Rev. Rul. 55-230, 1955-1 C.B. 71, holds that an association organized to guard the purity of the breed of Welsh ponies, to promote interest therein, and to establish, maintain, and publish authoritative records, registers, and transfers of ownership of that breed is exempt from income tax as an organization described in section 501(c)(5) of the Code. The organization's activities consist of registering and maintaining records of pure Welsh ponies, recording transfers of ownership, and publishing literature describing the Welsh pony for the benefit of its members or others interested in improving or raising the breed.

Rev. Rul. 66-105, 1966-1 C.B. 145, holds that an organization composed of agricultural producers whose principal activity is marketing livestock for its members does not qualify for exemption under section 501(c)(5) of the Code. The revenue ruling concludes that the sale of members' products is a direct business service for its members' benefit and is neither an object nor an activity within the ambit of section 501(c)(5). Therefore, an organization acting as a sales agent for its members is not exempt under section 501(c)(5).

[REDACTED]

Rev. Rul. 74-195, 1974-1 C.B. 135, holds that a nonprofit organization formed to manage, graze, and sell its members' cattle is providing a direct business service to its members and does not qualify for exemption as an agricultural organization under section 501(c)(5) of the Code. The revenue ruling concludes that providing a direct business service for its members' economic benefit does not of itself better the conditions of those engaged in agricultural pursuits, improve the grade of their products, or develop a higher degree of efficiency in their operations within the meaning of section 501(c)(5).

Rev. Rul. 77-153, 1977-1 C.B. 147, holds that a nonprofit organization that owns and operates a livestock facility and leases it to local members of a nonexempt national association of farmers for use in implementing the association's collective bargaining program with processors does not qualify for exemption under section 501(c)(5) of the Code. The revenue ruling concludes that the organization's principal activity is providing a business service to those members who make use of the national association's program and that this merely relieves the members of work they would either have to perform themselves or have performed for them. Such activity does not serve an exempt purpose of an agricultural organization.

Rev. Rul. 78-288, 1978-2 C.B. 179, holds that an organization whose members are engaged in harness racing in a specific geographic area as drivers, trainers, and horse owners, most of whom are independent contractors or entrepreneurs, and that negotiates with operators of area raceways for larger purses, better hours, and safer operating conditions does not qualify for exemption under section 501(c)(5) of the Code. The revenue ruling states that to be a labor organization under section 501(c)(5), an organization must primarily serve the interests of labor; labor is commonly accepted as meaning the performance of service as employees. The revenue ruling concludes that, in this case, most of the organization's members are entrepreneurs or independent contractors and therefore the economic interests served by the organization's activities are not those of employees.

In Forest City Live Stock and Fair Company, BTA Op. Doc. 362-36 (1932), an organization was created with a stated purpose of giving and holding fairs, stock shows and race meetings, and to acquire property in connection therewith. Although the organization did hold fairs at one time, for the years at issue the sole activity of the organization was the direct conduct of horse races and parimutuel betting activities at a track it owned and operated. The Board of Tax Appeals, in holding that the organization was not an exempt agricultural organization within

[REDACTED]

the meaning of section 501(c)(5) of the Code, stated: "It is presumed that Congress used the word 'agricultural' in its general accepted sense. It would be a far stretch of the imagination that would allow it to be used as a cloak to give exemptions from taxation to the racing business. The single fact that horse racing tends to promote the breeding of better race horses which are raised on a farm, is not enough. The connection to agriculture should be more immediate than this."

From the facts you have presented, it is clear that you were formed for, and your primary activity consists of, your operation and maintenance of a training facility for standardbred horses. Your membership consists solely of the horse owners who stable their horses at your facility on a first-come, first-served basis. Horse owners are usually independent contractors or entrepreneurs, and therefore the economic interests of your members and of those persons served by you are not considered to be the interests of employees. As explained in Rev. Rul. 78-288, supra, these facts preclude recognition of exemption under section 501(c)(5) of the Code because you are not primarily serving the interests of those persons who are performing services as employees.

Your purpose is to support the housing and training of standardbred horses in order to prepare them to engage in racing. The single fact that horse racing tends to promote the breeding and raising of better race horses, however, as discussed by the Board of Tax Appeals in Forest City Live Stock and Fair Company, supra, is not sufficient for purposes of exemption under section 501(c)(5) of the Code, even considering the fact that the quality of a standardbred horse is evaluated primarily on the basis of its speed. You are engaged solely in activities that promote the racing of standardbred horses, and in our view you are not engaged in any activity that would promote, except incidentally, agricultural purposes within the meaning of section 501(c)(5). You do not engage, for example, in any of the section 501(c)(5) activities discussed in Rev. Rul. 55-230, supra.

As explained in Rev. Ruls. 66-105, 74-195, and 77-153, all supra, merely owning and operating a facility for your members' use is providing a business service to them that is outside the purposes of section 501(c)(5) organizations. You are providing a direct business service for your members' economic benefit, a service that merely relieves the members of work they would either have to perform themselves or have performed for them. It makes no difference to this conclusion as whether or not you are giving your members more freedom in conducting their businesses, or freeing them from regulation, or autonomy over the control of their facility.

[REDACTED]

For these reasons, we conclude that you do not qualify for recognition of exemption from federal income tax under section 501(c)(5) of the Code. You are required to file federal income tax returns.

You have the right to protest this ruling if you believe that it is incorrect. To protest, you should submit a statement of your views, with a full explanation of your reasoning. This statement must be submitted within 30 days of the date of this letter and must be signed by one of your officers. You also have a right to a conference in this office after your protest statement is submitted. If you want a conference, you must request it when you file your protest statement. If you are to be represented by someone who is not one of your officers, he/she must file a proper power of attorney and otherwise qualify under our Conference and Practice Requirements.

If we do not hear from you within 30 days, this ruling will become final and copies of it will be forwarded to your key District Director. Thereafter, any questions about your federal income tax status should be addressed to your key District Director.

When sending additional letters with respect to this case to the Internal Revenue Service, you will expedite their receipt by placing the following address on the envelope:

[REDACTED]

Sincerely yours,

[REDACTED]

[REDACTED]

[REDACTED]

cc [REDACTED]

[REDACTED]